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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/026,578	12/17/2001	Thomas Schmidt	VJP-1030-US	1170
35938	7590	02/17/2011	EXAMINER	
BioTechnology Law Group 12707 High Bluff Drive Suite 200 San Diego, CA 92130-2037			ROBINSON, HOPE A	
			ART UNIT	PAPER NUMBER
			1652	
			NOTIFICATION DATE	DELIVERY MODE
			02/17/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DOCKETING@BIOTECHNOLOGYLAWGROUP.COM

Office Action Summary

Application No.

10/026,578

Applicant(s)

SCHMIDT, THOMAS

Examiner

HOPE A. ROBINSON

Art Unit

1652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 December 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34, 36, 37 and 41-44 is/are pending in the application.
- 4a) Of the above claim(s) 1-15 and 18-31 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16, 17, 32-34, 36, 37, 41-45 and 47-51 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 12/2/10
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Application Status

1. Applicant's response to the Office Action mailed on March 5, 2009 on September 8, 2009 is acknowledged.

Claim Disposition

2. Claims 1-34, 36-37, 41-445 and 47-51 are pending. Claims 16-17, 32-34, 36-37, 41-45 and 47-51 are under examination. Claims 1-15 and 18-31 are withdrawn as directed to a non-elected invention.

Information Disclosure Statement

3. The Information Disclosure Statement filed on December 2, 2010 has been received and entered. The references cited on the PTO-1449 Form have been considered by the examiner and a copy is attached to the instant Office action.
4. This application is in condition for allowance except for the following formal matters:
Applicants need to cancel the non-elected claims. At present claims 1-15 and 18-31 are withdrawn as directed to a non-elected invention.

Prosecution on the merits is closed in accordance with the practice under Ex parte Quayle, 25 USPQ 74, 453 O.G. 213, (Comm'r Pat. 1935).

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

Response to Arguments

5. Applicant's comments in the amendment are noted. Note that the rejections/objections of record are withdrawn. Thus applicant's comments are moot and will not be discussed herein. The withdrawn claims remain pending and they are not subject to rejoinder, thus should be cancelled.

Conclusion

6. Claims 16-17, 32-34, 36-37, 41-45 and 47-51 are allowable.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hope A. Robinson whose telephone number is 571-272-0957. The examiner can normally be reached on Monday-Friday from 10:00 a.m. to 6:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Mondesi, can be reached at (571) 272-0956.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Hope A. Robinson/

Primary Examiner, Art Unit 1652